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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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STATE DOCUMENTS

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WEEK IN REVIEW

HOUSE

The House of Representatives reconsidered S.778 which was tabled during the preceding week and returned the bill to the Senate with amendments. The bill creates a monthly user fee for commercial mobile radio service with funds to be used to upgrade 911 emergency telephone services. Under the bill, wireless telephone users (including cellular phone and personal communications service, PCS) pay a monthly user fee fixed at the average surcharge currently paid throughout the state by local telephone customers in jurisdictions where 911 service is provided. This user fee is collected by the wireless service provider and deposited in an interest bearing account with the State Treasurer's Office. The account is managed by the Budget and Control Board through the Office of Information Resources upon recommendation of a Commercial Mobile Radio Service Emergency Telephone Advisory Committee, created under the bill. The CMRS Emergency Telephone Services Committee is composed of: the State Auditor, ex officio; the Director of the Office of Information Resources in the Budget and Control Board, ex officio; two licensed CMRS providers; two 911 system employees; and one local exchange access facility telephone service supplier. Funds in the account are allocated to Public Safety Answering Points to defray costs incurred in handling 911 calls, and expended to upgrade emergency services hardware and software.

The House approved S.758. This bill creates the felony crime of assisting suicide. Violators who are convicted must be imprisoned not more than 15 years and/or fined not more than \$100,000.

The House amended and sent to the Senate H.4977. This bill concerns the procedure for seizing a vehicle forfeited because of multiple driving under suspension or driving under the influence convictions. The amendment approved by the House concerns the notice requirements (by publication) if the sheriff or chief of police cannot ascertain the identity or address of the last registered owner of the vehicle.

The House approved and enrolled for ratification S.1078. This bill amends the "Military Facilities Redevelopment Law," which concerns the State's redevelopment authority to acquire and dispose of federal military installations. The bill broadens the authorities in the Act to include, in addition to real property, "personal property," which is all goods, classified as equipment, used or bought for use primarily in the operation of the federal defense facility, not to include certain specified inventory, consumer goods, or farm products. The bill also broadens the sites included in the Act by adding "other federal defense sites," in addition to military installations as currently provided in the Act.

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The House amended and gave second reading to S.718 which pertains to the practice of psychology. The House amendments insert the provisions of two bills, H.3820 and H.4377, which have passed the House. In its amended form, the bill prohibits the practice of psychology without a license from the Board of Psychology and revises the list of acts which are considered to be the practice of psychology. Under the bill, an individual must have a doctoral degree in psychology in order to be licensed as a psychologist, but such licensure cannot be obtained with a doctoral degree in an allied field. The legislation revises exemptions to the licensure requirement and increases penalties for violating the requirement. The bill requires the Board of Psychology to report instances of possible violations to the solicitor. The amendment approved by the House exempts from the licensure requirement certain groups including: educators; day care providers; hospital workers providing intervention within their employ; human resources professionals; business consultants; local, state, or federal employees operating within the scope of their employment; SC Department of Alcohol and Drug Abuse employees; and school psychologists when working under contract to a public or private school, but not if practicing in other settings. Additionally, the bill establishes a new tier of licensure as a "Licensed Psycho-Educational Specialist" which may be obtained by an individual who has a master's degree in psychology and thirty additional hours of course work, and which authorizes the individual to offer his services in the private sector. Under current law, the "school psychologists" who are certified by the Department of Education to work in the public school system may not offer their services in private sector settings such as hospitals, clinics, private schools, etc. This legislation provides guidelines for the private sector service of Licensed Psycho-Educational Specialists. A Licensed Psycho-Educational Specialist is added to the Board of Examiners for the Licensure of Professional Counselors, Associate Counselors, Marital and Family Therapists. The bill in no way requires insurance companies to pay for any services of Licensed Psycho-Educational Specialists. The bill allows school districts which contract with Licensed Psycho-Educational Specialist to require, at the time of contract renewal, notification of the intent to practice in the private sector. As amended, the bill also conforms the licensure of professional counselors, associate counselors, and marital and family therapists to the uniform statutory framework for professional and occupational boards under the Department of Labor, Licensing and Regulation. The bill provides for the licensing and regulation of professional counselors and marriage therapists and interns. The bill provides for the licensure and regulation of alcohol and drug abuse counselors.

The House concurred in Senate amendments to H.4453, H.4549 and H.3889 (see Senate Week in Review, this issue).

The House amended Senate amendments to H.4802 (see Senate Week in Review, this issue).

The House approved and enrolled for ratification S.1212 which amends state laws governing credit for reinsurance so as to adopt provisions from the 1996 Credit for Reinsurance Model Act formulated by the National Association of Insurance Companies. Among other things, the provisions of this legislation reassert that state law, not provisions of the U.S. Bankruptcy Code, governs with regard to compulsory security demanded of foreign reinsurers and claims against insolvent foreign insurers.

The House adopted the conference report on H.3764 pertaining to certified public accountants. The legislation requires the Board of Accountancy to promulgate regulations conforming to American Institute of Certified Public Accountant standards for contingent fees, commissions,

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and forms of practice. The bill prohibits the board from requiring in its certification requirements a minimum number of hours of auditing financial statements. The bill revises criteria for practice as a partnership of certified public accountants.

The House returned to the Senate S.1170. This bill authorizes a mutual insurance company to form holding companies and sell shares for a stock company subsidiary. Under the legislation, a mutual insurer could reorganize as two new companies: a holding company and a stock insurance company, which would operate together. In such an arrangement, the holding company, comprised of policy holders, could not issue stock, but would own a majority of the voting shares in the stock insurance company. The stock insurance company would be authorized to raise capital by selling a minority interest of its voting stock. Should a mutual insurer reorganize as provided in the bill, officers, directors and employees are prohibited from purchasing stock in the reorganized company for six months. Under current law, a mutual insurer cannot sell stock. This legislation is the companion bill of H.5056 which passed the House on April 22, 1998.

The House returned to the Senate S.1215 which clarifies a reinsurer's responsibility in the event of an insurance company's insolvency. The bill eliminates existing ambiguity in current law and provides that a reinsurer need pay a specified type of claim only once. This legislation is the companion bill to H.3897 which passed the House on March 20, 1998.

The House returned to the Senate S.936 which provides for student permits authorizing a student enrolled in an accredited mortuary science college in the state to engage in the practice of funeral service.

The House sent to the Senate H.4876 which gives first priority to authorize cremation of a decedent to an individual who is designated to act as the decedent's agent in the decedent's will.

The House returned to the Senate S.981 which requires an associate degree with one year of on-site supervised experience for licensure as a residential care facility administrator.

The House concurred in Senate amendments to S.1070 and enrolled the bill for ratification. This bill provides that no person may tender or interchange a vehicle for use on any highway which is in violation of requirements of the US Department of Transportation Federal Motor Carrier Safety Regulations (FMCSR). The bill also allows the Department of Public Safety (DPS) State Transport Police, under certain conditions, to enter upon, and perform courtesy inspections of vehicles for certain purposes before these vehicles are tendered for use on public highways. The bill states that if a vehicle that is tendered is placed out-of-service due to a roadside inspection within five complete working days from the time the motor carrier is tendered, then the operator must be reimbursed for all fines and penalties incurred due to the out-of-service order, including reimbursement for certain expenses necessary to bring the vehicle into compliance with the FMCSR. The Senate amendment provides that the operator must be reimbursed for all fines and penalties incurred pursuant to the out-of-service order, unless the fines, penalties, or repair expenses are due to actions or omissions of the motor carrier operator after the vehicle was tendered.

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The House concurred in Senate amendments to H.4505 and ordered the bill enrolled for ratification. The bill concerns the load length on certain pole trailers or pole carriers. The Senate amendment requires a flashing amber strobe light and a red flag to be attached to any overhanging rear load. The amendment also provides that between 2:00 a.m. and thirty minutes past sunset, the limitations regarding length of loads do not apply to loads of iron, steel, and concrete articles up to sixty feet in length carried on a fifty-three foot long flat-bed trailer under specified conditions. The Senate adopted an amendment to the definition of "gross vehicle weight rating". An amendment also provides that most motor vehicles may not exceed a length of forty feet. The Senate also added a provision allowing a person to cross a primary highway or street while operating his golf cart on a secondary street within two miles of his residence during daylight hours only.

The House concurred in Senate amendments to H.3054, a joint resolution to create a committee to study the feasibility of implementing a statewide mass transportation system. The Senate amendment adds three members to the study committee and directs the committee to develop a plan to implement practical forms of mass transportation to enhance the economic opportunities of all South Carolinians.

The House concurred in Senate amendments to H.4526 which provides that the measure of the admissions license tax does not include any tax or fee imposed by a political subdivision that constitutes a part of the charge for admission. The bill also provides that the bingo tax paid by Native American tribal bingo operations is ten percent for each dollar of face value for each bingo card sold, rather than ten percent of the gross proceeds received during each session. The bill also allows certain bingo operations where proceeds benefit charitable organizations to make use of hard bingo cards rather than paper cards.

The House concurred in Senate amendments to H.4439 and ordered the bill enrolled for ratification. The bill prohibits a claimant from commencing a suit against a former shareholder of a dissolved corporation arising from the liabilities of the corporation or arising from acts of the corporation unless the suit is commenced within ten years after the corporation's dissolution. Furthermore, no judgment against a dissolved corporation may be satisfied by proceeding against or joining an individual shareholder unless a suit has been filed against the dissolved corporation and the shareholders within ten years of the dissolution of the corporation. The Senate amendment provides that the legislation takes effect upon approval by the Governor and applies to corporations dissolved before, on, or after the bill's effective date.

The free conference report was adopted for H.4799 which establishes "no wake" zones in various areas around Hilton Island and elsewhere along the coast of Beaufort County. The bill also provides that shrimp boats may use drag nets no closer than one-fourth mile from the coasts of Kiawah and Seabrook Islands.

The House sent to the Senate H.4767. This bill amends the definition of a "victim" and "criminal offense" for purposes of notifying victims of the release, escape, or transfer of persons convicted of committing an offense involving the victim. The bill states that criminal offenses include both statutory and common law offenses, however, drawing or uttering a fraudulent check or a traffic offense that does not involve personal injury or death are specifically excluded as criminal offenses. Additionally, the bill specifies that a victim does not include any individual who was imprisoned or engaged in an illegal act at the time of the

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offense. The bill also contains provisions addressing notification procedures for certain state agencies (e.g., the Department of Corrections) for post-conviction proceedings and addresses each county's allocation from the assessment charged to a person who is convicted, pleads guilty or nolo contendere to, or forfeits bonds for an offense tried in general sessions court.

The House sent to the Senate **H.4870**. This bill specifies the procedures for protesting the issuance or renewal of a beer and wine permit, a retail liquor license, or a minibottle license. One who wishes to protest the issuance/renewal of these licenses/fees may file a written statement, in which he must declare: his name, address, and telephone number; the name and address of the individual seeking issuance/renewal; the reason why he contends the application should be denied; and, whether he wishes to attend a contested hearing. If a protestant indicates a desire to attend a contested hearing, issuance or renewal may not occur until after the hearing takes place. If a protestant indicates no desire to attend a contested hearing and offer testimony before the Administrative Law Judge Division, the protest is deemed invalid and the permit/license shall be issued or renewed, if all other statutory requirements are met. A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a fine or penalty to include court costs, unless he provides the court with written notification of his absence five days in advance of the hearing.

The House amended Senate amendments to **H.3784** and returned the bill to the Senate. The bill rewrites the practice act for physical therapists (PT) to make it conform to the administrative framework established for boards and commissions administered by the Department of Labor, Licensing and Regulation (LLR). The bill makes several other substantive changes: (1.) Increases the number of board members from 5 to 9; (2.) Adds a definition for "physical therapy aide" - an unlicensed aide to a physical therapist assistant (PTA); (3.) Revises the definition of the term "physical therapy". Current law requires physical therapy services to be administered under the prescription of a licensed medical doctor or dentist. The bill deletes the requirement for a prescription. It also substantially revises the description of what comprises the practice of physical therapy. New elements in the definition include prevention, consultation, education, and advisory services; (4.) Prohibits a PT from accepting payment for patient referrals; (5.) Requires a PT to refer to a licensed medical doctor or dentist any patient whose medical condition should have been determined at the time of evaluation or treatment to be beyond the scope of practice of a physical therapist or whose medical condition did not improve within 30 days after initial treatment; (6.) Updates the qualifying criteria for licensure as a PT; Defines minimum college education requirements; (7.) Requires applicants for licensure to submit a PT school transcript with the board application. Also provides an applicant may not be granted a license if he/she has failed the examination three times; (8.) Changes annual license renewal to biennial renewal and adds requirements for continuing education as a condition for license renewal (30 hour biennium). Establishes provision for inactive license; (9.) Establishes procedures for provisional license for applicants who meet minimum standards; (10.) Establishes documentation standards for patients' physical therapy records and makes clear that the supervising physical therapist is responsible for the record; (11.) Establishes the role of physical therapy aids, mandates supervision and limits activities for aids; (12.) Updates requirements for supervision of physical therapist assistants. Current law requires the patient to be reevaluated and the plan of care re-approved by a physical therapist every eighth treatment. The bill requires a re-evaluation and plan re-approval every eighth treatment or every 60 days, whichever comes first; (13.) A provision is added to make it clear that there will be no mandate for payment by health insurance policies for

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physical therapy services. H.3784 also : (1.) Revise the definition of "the practice of physical therapy" to limit the kinds of tests a PT may perform and make it clear that a PT is not authorized to prescribe medications or other medical tests. (2.) Revise the powers of the Board of Physical Therapy to limit the board's regulatory power. The bill as introduced authorized the board to promulgate regulations defining and regulating the practice of physical therapy. The amendment authorizes the board to promulgate regulations for the practice of, but not the definition of, physical therapy. (3.) Revise the referral requirements for patients who are treated by a physical therapist without an initial referral from another health care provider. The change will require a PT to refer those patients to a licensed medical doctor or dentist if the PT treats the patient for more than thirty days. (4.) Prohibit a PT from changing patient care instructions of another health care provider without prior consultation with and approval by the health care provider. (5.) Specifically establish that nothing in the Physical Therapy Practice Act will restrict, inhibit, or limit the practice of chiropractors, nurse practitioners, physicians assistants, athletic trainers, massage therapists, exercise physiologists, personal trainers, dentist, or medical doctors. (6.) Specifically establish that nothing in the Physical Therapy Practice Act will affect the provisions of the Workers' Compensation code. The bill allows a license to be refused, revoked, suspended or restricted if a physical therapist fails to refer to a medical doctor or dentist after thirty days a patient which was not referred to the physical therapist by a medical doctor or dentist. The House amended the bill so as to delete Senate advice and consent powers.

The House refused to concur in Senate amendments to S.992 which pertains to the enforcement response to violators who avoid paying tolls.

The House appointed a conference committee to resolve differences on S.1025 pertains to a requirement that an inmate be housed in the appropriate detention facility nearest his home.

The House amended and sent to the Senate H.5003 which pertains to the membership of Regional Councils of Government. The bill provides that a resident member of the General Assembly may be appointed to serve in an *ex officio* capacity on the council by their respective resident county legislative delegation from each county comprising the council. If a county has no resident member of the General Assembly, then the county council shall select a member of the General Assembly who represents some or all of the county in question. A legislator selected in this manner may opt not to serve on the council. The members of the General Assembly shall serve on the council for four year terms. The bill also transfers Union County into the Regional Council of Government comprised of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg counties.

The House amended and recommitted to the Labor, Commerce and Industry Committee S.442 which authorizes a county governing body to allow county taxes to be paid with a credit card.

SENATE

The Senate concurred in the House amendments to S.1126. This bill requires the party to certify a candidacy 60 days prior to an election to the municipal election commission. If filing by statement of candidacy is authorized, the individual candidate must file a statement with the commission at least 60 days prior to the election. A petition candidate must file the petition with the municipal clerk at least 75 days prior to the general election. The House amended the bill by providing that for municipal elections only, a municipality may pool one or more precincts and have one voting place for the pooled precincts if specified conditions are met. The bill has been enrolled for ratification.

The Senate amended and gave third reading to H.3889. Entitled the "Access to Emergency Medical Care Act", this legislation requires medical personnel to initiate appropriate intervention to stabilize any emergency medical condition before requesting authorization for the treatment by a managed care organization. The bill also requires a managed care organization to inform its insureds, enrollees, patients, and affiliated providers about all policies related to emergency medical care access, coverage, payment, and grievance procedures. The bill was enrolled for ratification after the House concurred in the Senate amendment.

The Senate amended and returned to the House H.4757. This bill authorizes the Department of Natural Resources (DNR) to establish temporary slow speed zones in South Carolina waters by designating the areas with regulatory markers. The bill also gives DNR the authority to temporarily close areas of state waters to recreational and commercial vehicles for ten days if DNR determines that flood conditions make operating such vehicles dangerous. The Governor may extend a temporary closure until flood conditions are no longer dangerous. The closure does not apply to law enforcement or medical personnel or to persons who own or lease property within the affected area. The Senate amendments include a provision prohibiting a person aboard a recreational vessel to possess more than eight dolphin per day (or for the master of a recreational vessel to have aboard more than 30 dolphin per day). The master of a commercial fishing vessel may not have aboard more than 4,000 pound of dolphin. Another adopted amendment requires a legislative study committee to hold public hearings to discuss boating safety on South Carolina's waterways.

The Senate gave third reading to H.4453. The bill as amended states that it is unlawful to bait, assist in baiting, or cause to be baited an area over which migratory birds are being hunted if the persons engaged in the hunting have a lawful right to hunt that area. Violators are guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. A property owner will not be prosecuted for a violation where the person who is engaged in hunting is trespassing or hunting the baited area without the permission of the owner. After the House concurred in the Senate amendment, the bill was enrolled for ratification.

The Senate amended and gave third reading to H.5056. This bill provides the procedure for a domestic or foreign mutual insurer to reorganize as a domestic mutual insurance holding company system, with the reorganized mutual insurer as a domestic stock insurance company. The bill was returned to the House.

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The Senate gave third reading to H.4549. This joint resolution directs the Department of Mental Health to develop and submit to the General Assembly by January 1, 1999, a proposal for the construction of a state veteran's nursing home. The Senate amendment provides that in developing the proposal, the department must give consideration to the appropriate use of existing facilities and other available options. After the House concurred in the Senate amendment, the bill was enrolled for ratification.

The Senate amended and gave third reading to H.4886. This bill provides that crossbows are legal for use statewide during any open season for deer, turkey, or bear by a person who suffers from an upper limb permanent disability, provided the person, while hunting, has in immediate possession a written statement certifying the permanent disability. Otherwise, the use of crossbows during any open season for wild turkeys is unlawful and the use of crossbows during any archery equipment or bow and arrow only season is also unlawful. The use of a crossbow on private property statewide during the firearms or muzzleloader season for deer and bear is not prohibited. The bill was returned to the House.

The Senate gave third reading to H.4802. The bill prohibits the renewal of watercraft registration if the Department of Natural Resources has notice that property taxes are owed on the watercraft. Also, the bill provides that if renewal of registration has been denied pursuant to these provisions, a tax receipt from the person officially charged with the collection of *ad valorem* taxes in the county of residence must be accepted as proof that the taxes have been paid. The Senate amended the bill to require a legislative study committee to hold public hearings to discuss boating safety on South Carolina's waterways. When the bill was returned to the House, this language was deleted. The bill subsequently was returned to the Senate.

The Senate adopted the conference report on H.3764. This bill concerns the use of the title "certified public accountant" (C.P.A.) and provides that C.P.A.'s may charge a contingency fee or commission, or both, for performing services if the client and the C.P.A. enter into a separate written contract, executed by both parties, specifying the terms of the contingency fee or commission, or both, for each transaction to be conducted. The bill also requires the Board of Accounting to promulgate regulations relating to forms of practice, contingent fees, and commissions. The bill has been enrolled for ratification.

The Senate amended S.1110 after the House considered the bill. This legislation provides for various technical revisions to insurance statutes. The House amended the bill to allow insurance companies to sell life insurance riders while selling accident and health policies, so long as both are approved by the Department of Insurance. The Senate amendment concerns the Day Care Joint Underwriting Association, and provides for the election of a board of seven directors (one appointed by the Governor with the advice and consent of the Senate, three elected by a vote of the members of the association, and three day care owners or operators appointed by the Governor). The amendment stipulates that the board will elect a chairman and other necessary officers. The bill has been returned to the House.

The Senate amended S.310 after the House considered the bill. As amended, the bill states that a health benefit plan must allow a female enrollee thirteen years of age or older a minimum of two visits annually pursuant to the health benefit plan, without prior referral, to the health care services of an obstetrician-gynecologist in the health benefit plan. The bill also requires all individual and group health insurance policies and health maintenance organizations (HMO's)

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providing coverage for the hospitalization for mastectomies to pay for hospitalization for at least forty-eight hours following a mastectomy. The policies and HMO's also must provide coverage for prosthetic devices and reconstruction of the breast. Additionally, the amendment provides coverage for mammograms, annual pap smears, and prostate cancer examinations.

The Senate adopted the free conference report on H.4799, which establishes no wake zones on several creeks and coves on Hilton Head Island, and allows shrimp boats to drag nets no closer than one-fourth mile of Kiawah and Seabrook Island beaches.

The Senate concurred in the House amendments to S.994, which provides for the regulation of deferred presentment services and check-cashing services. Deferred presentment services involve accepting a fee in exchange for the service of accepting a dated check and holding that check for a period of time prior to presentment for payment or deposit. This legislation establishes annual licensing under the State Board of Financial Institutions for those who offer deferred presentment services, and provides for the regulation of such services. The bill has been enrolled for ratification.

The Senate nonconcurred in the House amendments to S.1025. This bill provides that the South Carolina Department of Corrections (SCDC) may consider placing an inmate in a facility or institution closest to the inmate's home when designating the place of confinement, if at-home placement does not jeopardize security. As amended, the bill states that proximity to a convicted person's home would not have precedence over departmental criteria for institutional assignment. A conference committee was appointed after the House insisted on its amendment.

The Senate amended S.174 and returned the bill to the House. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. The House had amended the bill to provide that if a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol. The Senate struck this language and reinstated a provision that reflects current law - an inference that a person is under the influence of alcohol if his blood alcohol content is ten one-hundredths of one percent (.10). The amended bill also provides for videotaping DUI arrests, beginning when the officer's blue lights are activated and ending after the arrest of the person for a possible DUI violation. The videotapes would be admissible evidence in court proceedings. The videotaping equipment would be paid for by part of the assessment charged to persons who are convicted of, or pleads guilty or nolo contendere to an offense tried in municipal court. The amended bill also includes the creation of a study committee to examine state law relating to minibottles and requires SLED to send the BAC Datamaster to an independent facility to test its accuracy and precision. Additionally, the Senate amended the bill to prohibit the sale of any container of malt liquor greater than one quart or one liter, whichever is greater.

The Senate gave third reading to the following bills: H.4785, relating to the withdrawal of a limited partner from a limited partnership; H.4566, concerning the disposition of surplus real property under the Housing Authorities law; H.4922, revising the penalty for unlawfully passing a stopped school bus to provide that violators must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both; H.4446, providing for the admissibility into evidence of copies of banking or educational loan records if a witness attests that the

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reproduction is a true and correct copy of the original; H.4621, requiring benefits paid under the accidental death benefit pension under the S.C. Police Officers' Retirement System to be adjusted to reflect increases in the cost of living in the manner benefit payments under the S.C. Retirement System are adjusted; H.4983, making it unlawful to file a false police report and to authorize the court to require restitution to be paid to the investigating agency for costs incurred in the investigation; and H.4735, revising a portion of the boundaries between North Carolina and South Carolina. These bills were enrolled for ratification.

The Senate amended and returned H.3603 to the House. This bill provides that it is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child to place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety. The Senate amended the bill to include a provision stating that the underage alcohol possession and consumption prohibitions do not apply to a student who receives any beer, wine, or similar malt or fermented beverage, if such beverage is delivered in a curriculum at an accredited college in which the student is required to taste or imbibe the beverages in courses which are part of the required curriculum, provided the beverages are used only for instructional purposes during classes.

The Senate amended and returned H.4755 to the House. This bill amends the list of arrangements not governed by the S.C. Residential Landlord and Tenant Act (S.C.R.L.T.A.) to include a residence, whether temporary or not, at a charitable or emergency protective shelter. The Senate added a provision concerning the written notice that a landlord must provide to a tenant before terminating the rental agreement for failure to pay rent. The amendment states that the written notice requirement is considered to have been satisfied if the rental agreement contains the following: "If you do not pay your rent within five days of the due date, the landlord can start to have you evicted." You will get no other notice as long as you live in this rental unit. The amendment also states that the S.C.R.L.T.A. shall apply to tenancies in manufactured home parks, that a manufactured home may be sold at public auction if it remains on the lot twenty days after the resident has been evicted, and that a writ of ejectment may be issued 10 days a verdict for the plaintiff.

The Senate amended H.4949 and returned the bill to the House. This bill concerns an owner or lessee of real property seeking to improve, repair, or maintain his property that is so situated that it is impossible to perform the repairs without entering the premises of an adjoining property. Under the provisions of the bill, if permission to enter the adjoining property has been denied, or unreasonable conditions have been placed upon the entry, the owner seeking to make the improvements may petition the circuit court for a license to enter the adjoining property. The petition may not be filed until after a good faith effort to obtain permission to enter the adjoining property has been made. The Senate amendment states that repair or maintenance does not include new construction on a site without a pre-existing structure.

The Senate amended and returned H.4975 to the House. This bill states that it is unlawful in the fire district to park within five hundred feet of a place where fire apparatus or an emergency vehicle is stopped in answer to an emergency. The bill also states that it is unlawful to drive a vehicle over any unprotected hose of a fire department without the consent of the fire department official in command when the hose is being used for fire fighting. Another amendment repeals the code section which prohibits a city or town with a population of at least 10,000 from requiring a fireman to work more than 12 hours during the day or more

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than 84 hours during the week. An amendment was added to the bill which would allow a day care center to employ a person convicted of a Class F driving under the influence felony if the conviction occurred at least ten years prior to the application for employment. Another amendment states that license plates containing a reference to a private or public college or university in this State or the symbols, designs, or logos of these institutions may not be issued without the institution's written authorization.

The Senate amended H.4535, the Legislative Incentives for Future Excellence (LIFE) Scholarship bill. The Senate amended the bill by striking the bill and inserting a tuition tax credit plan which would equal 30% of tuition paid, with an additional 5% credit for students who achieve a minimum grade average and SAT score (See Major Legislation Section in this week's Update). The bill has been returned to the House for consideration of the Senate amendments.

The Senate amended and gave third reading to H.4587. This bill requires all high schools, colleges, and universities in this State supported by public funds to give instruction in the essentials of the United States Constitution, the Declaration of Independence, and the Federalist Papers. No student may receive a certificate of graduation without previously passing a satisfactory examination upon the provisions and principles of the United States Constitution, the Declaration of Independence, and the Federalist Papers, and, if a citizen of the United States, satisfying the examining power of his loyalty thereto. An amendment provides that on Veterans Day or the day preceding Veterans Day (November 11) of each year, all elementary, middle, and high schools in this State shall devote at least one hour of the school day in either classroom instruction or at a student body assembly program to study the United States Constitution and the Declaration of Independence. Also, on November eleventh of each year, schools may permit students to attend activities to commemorate and honor veterans that are held at locations within their respective counties. The parent of a student seeking to be excused pursuant to this subsection shall provide prior written consent to the appropriate school personnel. Attendance at such activities will count as a part of the instructional day. The bill has been returned to the House.

The Senate amended and returned to the House H.4672. This bill exempts from sales tax the sale or resale of an interest in a vacation time sharing plan and a vacation multiple ownership interest. The amendment also exempts the exchange of an interest in a vacation time sharing plan from sales tax. Another amendment passed by the Senate would allow the Department of Revenue to allow certain Class D fair bingo license holders to use hard bingo cards in lieu of the paper cards currently required by statute.

The Senate gave third reading to S.1184. This bill deletes references to "freeholders" relating to the petition required to be submitted to the Secretary of State by persons desiring to incorporate a municipality. The bill also concerns the contiguity requirement required for incorporation. The legislation has been sent to the House.

The Senate gave third reading to S.4654, which eliminates the current provision of law which allows the Department of Natural Resources (DNR) to contract with enforcement officers. The bill also allows the director of DNR to remove an appointed officer at his discretion. Presently, only DNR's governing board is authorized to remove an appointed enforcement officer upon satisfactory proof that he is not fit for the position.

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The Senate rescinded its amendment to S.992, which provides for penalties for failure to pay tolls. The Senate amendment struck a provisions stating that school buses transporting school children for a school event shall be exempt from the payment of any tolls. The House refused to concur in the Senate amendment. The bill has been enrolled for ratification.

The Senate concurred in the House amendments to H.3784. This bill conforms the chapter in the S.C. Code of Laws concerning the licensing and regulation of physical therapists to the statutory organizational framework established in the Code for professional and occupational licensing boards. The bill has been enrolled for ratification.

The Senate gave third reading to H.3847. This bill clarifies a reinsurer's responsibility in the event of an insurance company's insolvency. The bill has been enrolled for ratification.

The Senate amended and gave third reading to H.4856. The bill concerns judicial candidates, and provides that all materials concerning the candidate including his report, transcript, application, materials, and other information gathered during the Judicial Merit Selection Commission's investigation must be kept confidential and destroyed as soon as possible after the candidate's written notification to the commission of his withdrawal. The Senate amendment states that the privilege of the floor in either house of the General Assembly may not be granted to any candidate during the time his application is pending before the commission and during the time his nomination by the commission for election to a particular judicial office is pending in the General Assembly.

The Senate amended and returned H.4360, the Sexually Violent Predator Act, to the House. The bill establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. The Senate amendment requires the Director of the Department of Corrections to appoint a multidisciplinary team to review records to determine if a person is a sexually violent predator. If it is determined that the person satisfies the definition of a sexually violent predator, the multidisciplinary team must forward a report of the assessment to the prosecutor's review committee. The assessment must be accompanied by all records relevant to the assessment. The Attorney General shall appoint a prosecutor's review committee to review the report and records of each person referred to the committee by the multidisciplinary team. The prosecutor's review committee shall determine whether or not probable cause exists to believe the person is a sexually violent predator. When the prosecutor's review committee has determined that probable cause exists to support the allegation that the person is a sexually violent predator, the Attorney General may file a petition with the court in the jurisdiction where the person committed the offense. The petition, which must be filed within thirty days of the probable cause determination by the prosecutor's review committee, shall request that the court make a probable cause determination as to whether the person is a sexually violent predator. The petition must allege that the person is a sexually violent predator and must state sufficient facts that would support a probable cause allegation. If the court determines that probable cause exists to believe that the person is a sexually violent predator, the person must be taken into custody if he is not already confined in a secure facility. Immediately upon being taken into custody, the person must be provided with notice of the opportunity to appear in person at a hearing to contest probable cause as to whether the detained person is a sexually violent predator. This hearing must be held within seventy-two hours after a person is taken into custody. Within sixty days after the completion of a hearing,

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the court must conduct a trial to determine whether the person is a sexually violent predator. The court or jury must determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If a jury determines that the person is a sexually violent predator, the determination must be by unanimous verdict. If the court or jury determines that the person is a sexually violent predator, the person must be committed to the custody of the Department of Mental Health for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. The bill was returned to the House.

The Senate amended and gave third reading to H.3033, Children's Emergency Medical Services Act. The EMSC program will establish EMS personnel education programs and guidelines for referral, treatment, inter-hospital transfer, and rehabilitation for critically ill or injured children. The bill was returned to the House.

The Senate amended and gave third reading to H.4737. This bill pertains to educational requirements for the licensure of real estate brokers and salesmen. An amendment passed by the Senate requires a real estate agent who knows or should have known of the existence of a rental contract in place on the property to disclose such information in writing to a potential purchaser on or before the origination of a sales contract. Such notice is sufficient notice to the purchaser of their obligation to honor such rental contract. Selling agent or agents who fail to timely and properly disclose such information shall be fined at least five hundred dollars, in addition to being subject to other disciplinary action as determined by the South Carolina Real Estate Commission that may include revocation of his real estate license. The bill was returned to the House.

The Senate gave third reading to S.1258 and sent the bill to the House. This legislation concerns "cooperating teachers" (a public school teacher who supervises full time students completing education degree requirements) and states that they may receive a voucher to be applied toward tuition for one course at the institution issuing the voucher.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The House Judiciary Committee gave a favorable report to S.1074, which regulates practices between wine manufacturers, wholesalers, and retailers.

The Judiciary Committee gave a favorable report to S.847, which provides that the fees collected from special retail beer and wine permits and the temporary permits for Sunday liquor sales may be used for affordable housing initiatives.

The Judiciary Committee gave a favorable report to S.331, which concerns a recognizance forfeited by noncompliance with its condition. The Attorney General, solicitor, magistrate, or other person acting for him immediately shall issue a notice to summon every party bound in the forfeited recognizance to appear at the next ensuing court to show cause, if he has any, why judgment should not be confirmed against him. If any person so bound fails to appear or, upon appearing, does not give a reason for not performing the condition of the recognizance as the court considers sufficient then the judgment on the recognizance is confirmed. The bill provides that a magistrate may confirm judgments of not more than the maximum fine allowable under Section 22-3-550 (\$500) in addition to assessments.

The Judiciary Committee reported favorably on S.1166. This joint resolution proposed an amendment to the S.C. Constitution to provide that a candidate for the Senate or House of Representatives must be a legal resident of the district in which he is a candidate at the time he files for the office. The Judiciary Committee gave a favorable recommendation to S.866. This bill increases the penalty for carjacking and provides that carjacking is listed in the code as a violent crime and a most serious offense.

The Judiciary Committee reported favorably on S.1162. This bill revises the standards applicable to juvenile detention facilities and states that preadjudicatory juveniles who are subsequently transferred to a juvenile detention center may be housed in a temporary holdover facility when returned to the community for a court appearance (yet the temporary housing must not exceed 48 hours).

The Judiciary Committee amended and gave a favorable recommendation to S.78. This bill provides that it shall be an unlawful trade practice to use an assumed or fictitious name in the conduct of a business to intentionally misrepresent the geographic origin, ownership of manufacturing facilities, or location of such business.

The Judiciary Committee amended and gave a favorable recommendation to S.325. This bill revises several sections of the code concerning bail and bail bondsmen. The bill states that magistrates may admit to bail a person charged with an offense the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event. This bill also states that a person charged with a bailable offense must have a bond hearing within 24 hours of his arrest and must be released within a reasonable time, not to exceed 4 hours, after the bond is delivered to the incarcerating facility. The bill also provides the licensing requirements for bondsmen and runners. An applicant for a license to work as a professional bondsman, surety bondsman,

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or runner must complete at least 20 hours of education in subjects pertinent to the duties and responsibilities of professional and surety bondsmen or runners, including all laws and regulations related to being a professional or surety bondsman or runner. A written examination must be administered at the conclusion of the course work. Each applicant must pass the examination before he can be licensed. Each person licensed as a professional bondsman, surety bondsman, or runner must complete annually at least 6 hours of continuing education before his license may be renewed. A person licensed as a professional bondsman, surety bondsman, or runner before the effective date of this section is not required to complete the requisite 20 hours of education but must complete 6 hours of continuing education courses in order to have his license renewed.

The Judiciary Committee amended and gave a favorable report to S.863, which states that an inmate who was convicted of, or pled guilty or nolo contendere to, an offense against a household member shall be eligible for parole after serving one-fourth of his or her prison term if credible evidence can be demonstrated of a history of criminal domestic violence suffered at the hands of the household member.

The Judiciary Committee amended and gave a favorable report to S.862, which is a crime classification bill. Among other revisions, the bill specifies that a crime victim does not include any individual who was imprisoned or engaged in an illegal act at the time of an offense.

The Judiciary Committee amended and gave a favorable recommendation to S.914. This bill, entitled the S.C. Garnishment Act of 1998, provides that a person has a right to a writ of garnishment if he has recovered judgment in any court against another person. This writ may not be used to recover a nonconsumer debt or a debt which resulted from a revolving account which is not a consumer credit transaction. To satisfy the judgment, he may subject to garnishment the income, wages, interest, rents, capital gains, distribution of earnings, bonuses, and commissions of the judgment debtor. The judgment creditor is required to give written notice to the entity through which garnishment is being effected when the debt has been paid off, file a satisfaction of the judgment, and forward any overpayment received to the individual from whom the debt was garnished within thirty days after the debt has been paid in full. Failure to do so entitles the party who overpaid to an award of reasonable legal fees and costs associated with forcing the creditor to comply plus damages not to exceed five hundred dollars.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee met on Tuesday, May 26, and reported out several bills.

The committee gave a report of favorable with amendment to S.534. This bill revises fines for violations of regulations prohibiting oppressive child labor. Under current law, an employer who violates the child labor regulations is issued a written warning for a first offense and fined not less than ten dollars nor more than fifty dollars for each subsequent offense. The bill eliminates these punishments, and instead provides the Department of Labor, Licensing and Regulation with the option of a fine of no more than one thousand dollars for a first offense. For a second or subsequent offense, an employer may be fined not more than five thousand dollars per

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offense. The Director of the Department of Labor, Licensing and Regulation shall determine the amount of the penalty according to regulations promulgated by the department which base penalties on the size of the business of the violator, the gravity of the violation, the good faith of the employer, and the history of previous violations. The proposed committee amendment adds to the bill the provisions approved by the House in H.3274. This legislation enhances the state's "Right to Work" laws which prohibit practices which make employment contingent upon membership in a labor union. The legislation broadens the scope of such laws so as to subject to penalties, not only employers, but also any person or labor organization who engage in practices which have the effect of requiring an employee to become or remain a member of a labor organization or pay any dues, fees, or charges to a labor organization. The Department of Labor, Licensing and Regulation is granted investigatory powers in disputes regarding alleged violations of "Right to Work" laws. A private cause of action for actual and punitive damages is created for individuals denied employment in violation of "Right to Work" provisions. The legislation sets civil and criminal penalties for violations which mirror those used for enforcement of "payment of wages" laws.

The committee gave a favorable report to S.982 which clarifies the legal status of TRAC (terminal rental adjustment clause) leases of motor vehicles. Under TRAC leases, vehicles or trailers are leased to businesses in an arrangement which allows or requires an upward or downward adjustment of rent to make up for any difference between the projected value of the vehicle and the actual value of the vehicle upon lease termination. Such an arrangement is designed to provide the user with a financial incentive to keep the vehicle in good repair. The bill clarifies that a TRAC lease is a true lease under state law and not a sale with ownership attributes.

The committee gave a favorable report to S.1179 which places the Carolina Capital Investment Corporation under the Board of Financial Institutions. The legislation would allow the Carolina Capital Investment Corporation, a not-for-profit affiliate of the SC Jobs Economic Development Administration, to qualify as a lender in the Small Business Association's 7-A loan program. Currently, the Carolina Capital Investment Corporation satisfies all qualifications for the SBA 7-A program except for full supervision by a state or federal regulatory authority.

The committee gave a report of favorable with amendment to S.401 which provides comprehensive revisions for laws governing building contractors. In its proposed amended form, the bill clarifies legal definitions and revises requirements for financial statements. The bill decreases the threshold cost at which a licensed contractor must conform with the residential homebuilders law. The bill expands the SC Contractor's Licensing Board's ability to direct disciplinary actions and sanctions against unlicensed contractors. The legislation also adds regulations pertaining to construction managers.

The committee gave a report of favorable with amendment to S.1128 which pertains to licensed professional counselors. The provisions of the proposed committee amendment were instead approved by the House as an amendment to S.718 (see House Week in Review, this issue).

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

H.4654 ENFORCEMENT OFFICERS OF THE DEPARTMENT OF NATURAL RESOURCES

Rep. Sharpe

This bill deletes the current provision of law which allows the Department of Natural Resources to contract with enforcement officers. The bill also allows the director of DNR to remove an appointed officer at his discretion. Presently, only DNR's governing board is authorized to remove an appointed enforcement officer upon satisfactory proof that he is not fit for the position.

EDUCATION AND PUBLIC WORKS

H. 5195 TASK FORCE TO STUDY EARLY CHILDHOOD DEVELOPMENT Rep. Govan

This bill establishes a legislative/professional/citizen task force to study all aspects of early childhood development and its impact on school readiness and success in school. Only legislative members of the task force may vote. The bill requires the task force, which will be assisted by staff of specified House committees, to report its findings and recommendations to the House of Representatives, upon which time the task force will be abolished.

H. 5198 SPANISH-SPEAKING SOUTH CAROLINA RESIDENTS Rep. Spearman

This bill establishes a study committee to review problems associated with providing state government services to Spanish-speaking residents of this state, and to make recommendations on the means of making state government services available to such residents. The composition of the committee is specified in the bill, and the members serve without compensation. The bill requires that the committee report its recommendations to the General Assembly by January 20, 1999, at which time the committee is abolished.

H.5208 SC DRIVING PRIVILEGES FOR GERMAN CITIZENS Rep. Littlejohn

This bill provides that a citizen of Germany who is at least 18 year old, who is employed in South Carolina, and who has a valid driver's license issued by that nation, may drive in South Carolina for four years.

JUDICIARY

S.1184 *INCORPORATION OF A MUNICIPALITY* Sen. Ravenel

This bill deletes references to "freeholders" relating to the petition required to be submitted to the Secretary of State by persons desiring to incorporate a municipality. The bill also concerns the contiguity requirement required for incorporation. The legislation has been sent to the House.

LABOR, COMMERCE AND INDUSTRY

H.5184 *WORKERS' COMPENSATION* Rep. Jennings

This bill increases by twenty-five percent the compensation awarded in cases of wilful or reckless noncompliance with workers' compensation regulations. The definition of injury is expanded to include gradual injuries incurred by repeated performance of job duties. The bill makes various other revisions in workers' compensation law.

MAJOR LEGISLATION CONSIDERED DURING THE 1998 LEGISLATIVE YEAR

These summaries highlight some of the major bills considered by the General Assembly this year. This document is not intended to be an exhaustive list of the matters debated by the legislature in 1998. Major legislation is summarized here in a format which is intended to be more accessible than a simple reading of the bills, joint resolutions, and acts. This report, which covers legislative activity through *June 2, 1998*, is a guide to, not a substitute for, the full text of the legislation summarized. The status and content of the legislation is subject to change.

CRIMINAL JUSTICE/THE COURTS

SCHOOL SAFETY ACT OF 1998

(as passed by the House)

H.4631 allows the governing body of a municipality or county to designate school resource officers to work within the local government's school systems and provides the school resource officer with statewide jurisdiction to arrest persons committing crimes in connection with a school activity or school-sponsored event. Current law requires school administrators to contact law enforcement officers immediately upon notice that a person is engaging or about to engage in school-related crime. This bill states that the failure of a school administrator to report the criminal conduct will subject the administrator and the school district to liability to pay a party's attorney's fees and the costs associated with an action to compel compliance with the reporting requirements. The bill also adds notification requirements if a student has been convicted of certain weapons or drug offenses. The appropriate agency (for example, the Department of Juvenile Justice) or the clerk of court (if the student is not sentenced to probation or incarceration) is required to provide immediate notice of the student's conviction or adjudication to the senior administrator of the school where the student is enrolled.

STATUS - On May 28, 1998, H.4631 was reported favorable with amendment by the Senate Judiciary Committee. The bill is up for second reading on the Senate Calendar.

SEXUALLY VIOLENT PREDATOR ACT

(as passed by the House)

H.4360, the "Sexually Violent Predator Act," establishes procedures for determining if a person is a sexually violent predator, and provides for a civil commitment procedure for the long-term care and treatment of a person found to be a sexually violent predator. A "sexually violent

predator" is defined as a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence if the person is not confined in a secure facility.

When a person has been convicted of a sexually violent offense, the agency with jurisdiction (for example, the Department of Corrections) must give notice to the Attorney General and the solicitor 90 days before the anticipated release from total confinement. The Attorney General or the solicitor may file a petition alleging that the person is a sexually violent predator. A judge must then determine whether probable cause exists to believe the person named in the complaint is a sexually violent predator. If the judge so determines, the person must be taken into custody. Within 72 hours after being taken into custody, the person must be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause that the detained person is a sexually violent predator.

The court must conduct a trial within 60 days after the completion of the hearing to determine whether the person is a sexually violent predator. A person determined to be a sexually violent predator must be committed to the custody of the Department of Mental Health (DMH) and segregated from other patients under the supervision of DMH. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court must direct the person's release. A person committed as a sexually violent predator must be examined annually and the court must conduct an annual review of the status of the committed person.

The Senate amendment requires the Director of the Department of Corrections to appoint a multidisciplinary team to review records to determine if a person is a sexually violent predator. If it is determined that the person satisfies the definition of a sexually violent predator, the multidisciplinary team must forward a report of the assessment to the prosecutor's review committee. The assessment must be accompanied by all records relevant to the assessment. The Attorney General shall appoint a prosecutor's review committee to review the report and records of each person referred to the committee by the multidisciplinary team. The prosecutor's review committee shall determine whether or not probable cause exists to believe the person is a sexually violent predator. When the prosecutor's review committee has determined that probable cause exists to support the allegation that the person is a sexually violent predator, the Attorney General may file a petition with the court in the jurisdiction where the person committed the offense. The petition, which must be filed within thirty days of the probable cause determination by the prosecutor's review committee, shall request that the court make a probable cause determination as to whether the person is a sexually violent predator.

STATUS - On May 28, 1998, the Senate amended and gave third reading to H.4360. The bill has been returned to the House of consideration of the Senate amendments.

SEX OFFENDER REGISTRY INFORMATION

(as passed by the House)

The House of Representatives amended and sent to the Senate H.4805, which concerns the release of sex offender registry information to the public. The bill provides that a person may request a list of registered sex offenders residing in a city, county, or zip code zone or a list of

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all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. SLED must provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other physical identifying characteristics, each offender's date of birth, a current home address, the offense for which the offender was required to register, and the date, city, and state of conviction.

A sheriff must release information regarding a specific person required to register to a member of the public if the request is made in writing. The bill provides that the sheriff may disseminate information from the registry regarding a specific person who is required to register if he has reason to believe the release of the information will deter the criminal activity. The bill deletes the requirement that the sheriff must be presented with facts giving rise to a reasonable suspicion of criminal activity before releasing information about a specific person.

The bill also adds an additional requirement for offenders determined to be sexually violent predators. While current law requires a person required to register to do so annually, this bill requires a person adjudicated as a sexually violent predator to verify registration and be photographed by the sheriff's department in the county in which he resides every 90 days.

The bill provides that it is the duty of the offender to contact the sheriff in order to register. An offender may not knowingly and wilfully give false information when registering. These crimes are punishable by imprisonment.

*STATUS - **H.4805** was reported favorable with amendment by the Senate Judiciary Committee on May 20, 1998. On May 26, 1998, the Senate gave second reading with notice of general amendments to the bill. Senators Ford is listed as desiring to be present.*

SENTENCING GUIDELINES

The House has passed **H.3842**. This bill extends the provisions of Truth in Sentencing to all crimes and establishes advisory sentencing guidelines for crimes with maximum penalties of one year or more. The bill provides that the court should consider the guidelines when determining the appropriate sentence for applicable criminal offenses. The advisory sentencing guidelines use a two-dimensional grid to determine the appropriate sentence for offenders. The intersection of the horizontal and vertical score (based on several factors concerning the crime and the offender) meet at the appropriate sentencing grid cell. Within each grid cell, there are three sentencing ranges - the presumptive range (for cases with no extraordinary circumstances), the aggravating range (for cases warranting a longer sentence because of aggravating sentences), and the mitigating range (for cases warranting a lesser sentence because of mitigating factors). The bill also gives the court discretionary authority to determine if a departure from the guidelines' recommendation is warranted. The court may consider such factors as whether the defendant assisted in the investigation or prosecution of another person, or whether the defendant caused the victim to suffer protracted physical or mental harm.

The bill also extends the provisions of Truth in Sentencing to all crimes. A prisoner convicted of a crime and sentenced to the Department of Corrections would not be eligible for early release, discharge, or community supervision until the prisoner has served 85% of the actual term of imprisonment imposed (the provisions of Truth in Sentencing currently apply only to "no parole offenses"). This percentage must be calculated without the application of earned work credits, education credits, and good time credits. All or part of these credits may be forfeited at the discretion of the Director of the Department of Corrections if the offender commits an offense or violates one of the rules of the institution.

STATUS - H.3842 has been placed on the Senate calendar. A majority of the Senate Judiciary Committee amended and gave the bill a favorable report; a minority report also was placed on the bill.

MAGISTRATES COURT REFORM

The House passed H.4378, the Magistrates Court Reform Act of 1998. This bill requires a magistrate appointed to office after July 1, 1999 to have a four-year baccalaureate degree (although a grandfathering provision exempts any magistrate serving on 7/1/99 from this provision). The South Carolina Court Administration, in cooperation with the technical college system, must administer an eligibility exam to test the basic skills of persons seeking an initial appointment as a magistrate after July 1, 1999. The senatorial delegation must use the results of the eligibility exams to assist in its selection of nominees (the Governor appoints magistrates with the advice and consent of the Senate). Persons may be exempted from taking the examination if certain prescribed educational equivalency requirements have been met.

The bill also requires magistrates to observe 10 trials before presiding over a trial. Magistrates would be paid by the state through the SC Court Administration, and counties would be prohibited from supplementing the salaries of magistrates. Three base categories for salaries are established, depending on the population of the county where the magistrate is located. Magistrates in counties of 150,000 or more would be paid 55% of a circuit court judge's salary; for counties between 50,000 and 150,000, magistrates would be paid 45% of a circuit judges salary; and for counties below 50,000, magistrates would be paid 35% of a circuit court judge's salary. Magistrates would not be paid 100% of the base salary until after four years in office.

The bill also increases the fee in magistrates court for issuing a summons and complaint in a civil action and for giving judgment from \$25 to \$45, increases the fee for proceedings by a landlord against a tenant from \$10 to \$20, and raises the costs charged by the court for writing bad checks from a maximum of \$20 to a maximum of \$41. The bill also raises the fee for the party applying for a warrant to a maximum \$41 if the case is dismissed for lack of prosecution (current law provides a maximum \$20 liability). The House also allowed concurrent civil jurisdiction for magistrates on specified legal actions which do not involve over \$7,500 (as opposed to the current cap of \$5,000 on these itemized legal actions).

STATUS - H.4378 has been referred to the Senate Judiciary Committee. The Senate version of the Magistrates Court Reform Act of 1998 (S.885) is pending on the Senate calendar with two senators listed as "desiring to be present."

DUI LEGISLATION

The House has passed **S.174**. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. If a person under age 21 refuses to submit to a chemical test, the Department of Public Safety must suspend his license for 6 months (or for one year if the person within the five years preceding the violation of this section, has been convicted of DUI). If a person under age 21 submits to a chemical test and the test result indicates a BAC of .02 or more, the department must suspend his license for 3 months (or 6 months if the person, within the 5 years preceding the violation of this section, has been convicted of DUI).

Additionally, the bill provides that a test may not be administered or samples taken unless the person has been informed in writing that he does not have to take the test or give the samples, but that his privilege to drive must be suspended or denied for at least 6 months if he refuses to submit to the tests and that his refusal may be used against him in court. The person must be informed that his privilege to drive will be suspended for at least 3 months if he takes the test or gives the samples and has an alcohol concentration of .02 or more; that he has the right to have a qualified person of his own choosing conduct additional independent tests at his expense; he has the right to request an administrative hearing within 10 days of the issuance of the notice of suspension; and that he must enroll in an Alcohol and Drug Safety Action Program (ADSAP) within 10 days of the issuance of the notice of suspension.

The person may obtain a temporary alcohol restricted license, which allows the person to drive without any restrictive conditions pending the outcome of the administrative hearing, or the final decision or disposition of the matter (this license must be obtained within 10 days of the issuance of the notice of suspension). If the person does not ask for the administrative hearing within the 10 days, he waives his right to the hearing and his suspension must not be stayed. At the hearing, if the suspension is upheld, the person's driver's license must be suspended; if the suspension is overturned, the person must have his driver's license reinstated and is not required to complete ADSAP.

The bill also states that it is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's mental and physical abilities are materially and appreciably impaired. If a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol (the effective date for this provision would be January 1, 2001 - the current provision states that it may be inferred that a person is under the influence of alcohol if his BAC is .10). The bill requires video taping at both the incident site and the breath test site, and the bill creates a study committee to examine state law concerning minibottles and alcoholic liquor.

The Senate amended **S.174** and returned the bill to the House. This bill requires the Department of Public Safety to suspend the driver's license of a person under the age of 21 who drives a motor vehicle and has a blood alcohol concentration (BAC) of .02 or more. The House had amended the bill to provide that if a person's alcohol concentration is .08 or more, it may be inferred that the person was under the influence of alcohol. The Senate struck this language and reinstated a provision that reflects current law - an inference that a person is under the influence of alcohol if his blood alcohol content is ten one-hundredths of one percent

(.10). The amended bill also provides for videotaping DUI arrests, beginning when the officer's blue lights are activated and ending after the arrest of the person for a possible DUI violation. The videotapes would be admissible evidence in court proceedings. The videotaping equipment would be paid for by part of the assessment paid by person who are convicted of, or pleads guilty or nolo contendere to an offense tried in municipal court. The amended bill also includes the creation of a study committee to examine state law relating to minibottles and requires SLED to must the BAC Datamaster to an independent facility to test its accuracy and precision. Additionally, the Senate amended the bill to prohibit the sale of any container of malt liquor greater than one quart or one liter, whichever is greater.

STATUS - On May 27, 1998, the Senate amended the House amendments to the bill. S.174 has been returned to the House for consideration of the Senate amendments.

EDUCATION (K-12)

EDUCATION ACCOUNTABILITY

HOUSE PLAN

The House passed H.4399, the "South Carolina Performance and Accountability Standards for Schools (PASS) Act." This bill creates a system of accountability for the state's kindergarten through twelfth grade public education system by equipping students with a strong academic foundation and providing a clear means of measuring the progress of individual students, schools and school districts. To provide oversight, the bill creates the Performance and Accountability Standards for Schools Commission (the Commission), composed of fifteen voting members who serve four-year terms. The Commission would include legislators, members representing business and industry, and members representing public education.

The bill directs the Board of Education (the Board) to adopt specific performance-oriented education standards for math, English/language arts, science, and social studies for kindergarten through twelfth grade, and requires a cyclical review of these standards to ensure the maintenance of high expectations for learning and teaching.

The bill directs the Board to develop a statewide assessment program for grades two through eight; end of course tests for gateway courses in English/language arts, mathematics, science, and social studies for grades nine through twelve; and an exit exam which is linked to the adopted standards. The Board also will develop or adapt a first and second grade readiness test which is linked to the adopted standards.

The bill requires the State Department of Education to provide data from these assessments to the schools and districts of the State, and the schools and districts must then disseminate this information to parents. The bill requires establishment of an annual report card for elementary, middle, and high schools, and for school districts, which would assign schools letter grades (A, B, C, D or F) to indicate the school's success in meeting student achievement benchmarks as well as the progress the school has made towards meeting benchmarks since the last grading period. The bill allows a student who attends a school which receives an "F" grade to transfer

to any other school in the district. If a district does not contain any schools receiving better than an "F," a student may transfer to a school in an adjoining district, if space is available.

The bill establishes a program to recognize and reward schools with high levels of performance and schools with improved performance. Assistance for poorly performing schools is also provided, including the establishment of a separate fund within the State's General Fund to provide financial support for poorly performing schools. The fund may consist of grants, gifts, public or private donations, and appropriations from the General Assembly. The bill also provides assistance to poorly performing schools by providing the schools access to qualified teachers and principals who will be paid an incentive wage for three year contracts placing them in the low-performing schools.

The bill requires the Commission to review professional development, including principal leadership development and teacher staff development, and requires a subcommittee of the Commission to explore the development of an on-going public relations campaign and issue a report to the Commission of the plan by July 1, 1999.

The bill authorizes the Commission to monitor and review the funding of Education Improvement Act programs. If a school district has adopted a policy permitting corporal punishment, the school district and its employees are immune from civil and criminal liability while administering corporal punishment in conformity with the district's policy, absent gross negligence or recklessness.

SENATE PLAN

The Senate passed S.850, the SC Performance and Accountability for Excellence in Teaching and Learning (EXCEL) Act. Included among the differences between the Senate and House accountability proposals: the Senate proposal does not assign letter grades to indicate a school's performance (in the Senate plan, schools are designated as "successful," "proficient," "acceptable," "on notice," or "challenged"); the Senate proposal does not allow a student who attends a school receiving a low ranking to transfer to another school; the Senate proposal provides \$39 million in funding for the first year of a four-year phase-in for districts choosing to lower the pupil-teacher ratio to 15:1 in kindergarten through grade three (the House proposal provides \$8.1 million for 15:1 pupil-teacher ratio only in districts of greatest need); the Senate proposal provides for forty-six alternative schools (one per county), which, having met certain criteria, would be eligible to receive state funding (this is not addressed in the House bill); the Senate proposal provides for a principal mentoring program for principals in poorly performing districts, and principal-specialists on site (with salaries and supplements for specialists paid for by the State) to help these schools meet academic standards (not included in House bill).

The Senate's proposal also includes: creation of thirteen multi-school district regional service centers to provide technical assistance to schools and districts; a requirement for the establishment of grant programs to fund homework centers in schools and districts designated as "on notice" or "challenged"; a grant program to assist with additional costs incurred with intersession assistance for students with a "D" average or below in the core academic areas.

STATUS - The House amended the Senate bill (S.850) by striking everything except the title and inserting the language of the House-passed version of H.4399, the PASS Act. The Senate

*refused to concur with this amendment. A conference committee is working to resolve the differences. (NOTE: The Senate Education Committee replaced the language in the PASS bill - **H.4399** - with the language from the EXCEL proposal and that bill is pending on the Senate calendar with six senators listed as "desiring to be present"). Also, both the House and the Senate included their accountability plans in their respective versions of the 1998-99 budget bill, which is being negotiated in conference committee.*

*The Senate also passed **S.1115**, which provides that school districts which reduce class size to a pupil-teacher ratio of fifteen to one in full-day kindergarten programs and in grades one through three are eligible for funding from the General Assembly for this purpose. Local match is required based on the Education Finance Act formula. The bill provides a phased-in funding schedule for costs of the lower ratios, beginning with funding for kindergarten in school year 1998-99 and ending with funding for third grade beginning with school year 2001-2002. **S.1115** is pending in the House Ways and Means Committee.*

HIGHER EDUCATION

TUITION ASSISTANCE

HOUSE PROPOSAL

The House passed **H.4535**, the Legislative Incentives for Future Excellence (LIFE) Scholarship bill, which provides \$2,000 per year for full-time attendance at South Carolina four-year colleges and \$1,000 per year for full-time attendance at the state's two-year colleges to students who meet specified academic and residency requirements. To be eligible for LIFE Scholarship, a student must graduate from high school with at least a 3.0 grade point average (on a 4.0 scale) and a minimum score of 1000 on the Scholastic Aptitude Test (SAT), or an equivalent score on the ACT beginning with the 1998-99 school year. The minimum SAT/ACT score requirement does not apply to scholarships to two-year institutions of higher learning, including technical schools. The minimum SAT/ACT score requirement will be raised to 1050 beginning school year 2000-2001, and 1100 beginning school year 2002-2003.

By the year 2000, students graduating from high school must comply with the curriculum requirements of the STAR (*Superior Scholars for Today and Tomorrow*) diploma to be eligible for the LIFE scholarship. A student who does not meet the SAT requirement as a graduating high school senior may earn the scholarship after his freshman year in a four-year institution of higher learning, if the student earns a 3.0 grade point average on a 4.0 scale. The student will lose the scholarship if he does not maintain a 3.0 grade point average, but the scholarship may be reinstated after one year if the student's grade point average improves to a cumulative 3.0. Students must also pass thirty credit hours each year to maintain the scholarship.

Scholarships may only be used at institutions of higher learning in the state which meet certain criteria, usually accreditation from the Southern Association of Colleges and Schools (SACS). The House amended the bill to include Bob Jones University as an institution which may receive LIFE Scholarship funds. Another House-passed amendment provides for special review

by the Commission on Higher Education and the possible waiver of certain requirements in the case of applicants for a LIFE Scholarship who are enrolled at the SC School for the Deaf and Blind or the Wil Lou Gray Opportunity School.

An individual is ineligible for the LIFE Scholarship if he has been convicted, adjudicated delinquent, or pled *nolo contendere* to a felony or an alcohol or drug-related offense.

SENATE PROPOSAL

The Senate amended H.4535 by striking the bill and inserting a tuition tax credit plan which would equal 30% of tuition paid, with an additional 5% credit for students who achieve a minimum grade average and SAT score. These credits may not exceed 35% of tuition paid, and would be available to students who graduate from high school during or after May, 1995. The credits are available for a maximum of eight consecutive semesters unless an extension is granted by the Commission on Higher Education for "medical necessity."

Also, the Senate included in its 1998-99 budget, funding and language for a tuition assistance plan which would provide state individual income tax credits equal to 20% of tuition paid, with an additional 5% credit for students who achieve a minimum grade average and SAT score.

STATUS - H.4535 is on the House calendar for consideration of House concurrence with the Senate amendments. The House and Senate tuition assistance plans as included in the 1998-99 budget are being considered by the House-Senate budget conference committee. The House-passed budget plan includes \$30.3 million to fund the LIFE scholarship program. The Senate-passed budget bill includes a \$7 million appropriation to fund the Senate's tuition tax credit plan.

FAMILY/HEALTH

GENETIC INFORMATION

Both the Senate and the House of Representatives have approved S.535 and the bill has been enrolled for ratification. The bill provides for privacy of genetic information with regard to insurance coverage. Proponents of the legislation contend that many individuals are hesitant to undergo genetic testing for fear that the results of the tests will make it more difficult for them, and their blood relatives, to obtain affordable health insurance coverage. Proponents offer this legislation to encourage individuals to obtain potentially life-saving information from genetic tests without fear of an adverse impact on their insurance rates. To that end, this bill prohibits insurers from denying or restricting coverage on an individual on the basis of information obtained in genetic tests. An accident or health insurer may not require a person to consent to disclosure of genetic information as a condition for obtaining accident and health insurance. Neither may an insurer charge rates which vary on the basis of information obtained from genetic tests.

Under the legislation, it is unlawful to perform a genetic test on blood, urine, or any other biological sample without consent, unless the test is performed: (1) by a law enforcement agency in a

criminal investigation; (2) to identify a dead body; (3) in the course of a scientific study where the identities of test subjects are not disclosed; (4) to establish paternity; or (5) pursuant to statute or specific court order. Under the legislation, all genetic information is confidential, and such information may be released only: (1) if the information is necessary to a criminal investigation, inquest, or proceeding; to identify a dead body; (2) pursuant to a court order; (3) when disclosure of the genetic information of a deceased individual would assist medical diagnosis of blood relatives; (4) to establish paternity; or (5) as required by state or federal statute.

Civil remedies are provided for individuals harmed by unauthorized disclosure or use of genetic information. The bill authorizes the following remedies: equitable relief, which may include a retroactive order, directing that health insurance be provided under the same terms and conditions as would have applied had the violation not occurred; actual damages; and, recovery of costs and reasonable attorney fees.

STATUS: S.535 has been ratified (R.351).

"OMNIBUS HEALTH BENEFITS AND EDUCATION ACT OF 1998"

The House sent to the Senate H.3985, the "Omnibus Health Benefits and Education Act of 1998." The legislation requires a health benefit plan to allow its female enrollees, who are at least thirteen years of age, a minimum of two visits each year, without prior approval, to a obstetrician-gynecologist (OB/GYN) in the health benefit plan. Should the OB/GYN find during these two visits that continued treatment is medically necessary, additional visits must be authorized by the health benefit plan. The health benefit plan must notify enrollees of these benefits. The bill also requires that all health insurers which provide coverage for mastectomies, must provide coverage for hospitalization for at least forty-eight hours following the mastectomy. The bill further requires that all health insurers which provide coverage for mastectomies, must provide coverage for prosthetic devices and restorative surgery following a mastectomy so as to produce a symmetrical appearance. Additionally, the bill requires all health insurers to provide coverage for mammograms and annual pap smears.

STATUS: On 5/7/98, H.3985 was recalled from the Senate Banking and Insurance Committee.

PREGNANCY PREVENTION

H.3760 requires an unmarried pregnant female under age 18 to attend a free pregnancy prevention education course offered at a local health department. The original bill required the Department of Health and Environmental Control (DHEC) to specify the content of the course. The Senate amended the bill to require the course to be specified by the Department of Social Services (DSS) instead of DHEC. The course must include information on birth control methods and sexually transmitted diseases. Health care professionals who provide care to these teenagers must refer them to the appropriate county health department and inform them that attendance and completion of this course is a required component of their care. DHEC must report to the General Assembly by January 1, 1999 on the cost to develop and implement a comparable pregnancy and sexually transmitted disease prevention education course for males. The Senate amendment to H.3760

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requires parental notification if birth control devices are given to a woman under the age of 18. The Senate also amended the bill to require the course material to contain a statement that abstinence outside of marriage and sexual relations with an uninfected marriage partner is the only absolute way to prevent sexually transmitted diseases and to prevent pregnancy."

The Senate amendment establishes the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. This fund must be administered by DSS and county governments as provided in this new chapter. The stated purpose of the fund is to support local efforts to prevent early sexual activity and to measurably reduce the rate of adolescent pregnancy in each county and in the State and to ensure that these efforts reflect local community values. Local public or private agency or organization or combination of these agencies and organizations may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility. The bill also includes the formula for distributing funds under the County Grants Fund for Adolescent Pregnancy Prevention Initiatives. Ten percent of the money must be used to evaluate the effectiveness of each initiative and the fund under guidelines provided by the bill; 15% must be allocated evenly among the counties; 15% must be allocated to the counties based on the size of their adolescent population; 20% must be allocated to counties based on their rate of adolescent pregnancy; 40% must be allocated to counties based on their number of adolescent pregnancies; and the county may retain up to 5% to cover the costs of administering the fund. All grant funds received by the county must be allocated within two years of receipt. If the county does not designate an agency or organization to assume these responsibilities, DSS may designate another agency or organization within the county. A local public or private agency may apply to the county government for an allocation of funds to operate an adolescent pregnancy prevention initiative. All initiatives funded by the county government must emphasize premarital sexual abstinence and male responsibility.

STATUS - On May 20, 1998, the House adjourned debate on the Senate amendments to the bill until June 2, 1998.

GAMING/GAMBLING

STATE LOTTERY

On 4/23/98, The House Ways and Means Committee gave a report of favorable with amendment to Joint Resolution H.4682 which proposes amending the South Carolina Constitution so as to establish a state lottery, the proceeds of which would be used to fund scholarships for in-state residents to attend South Carolina's postsecondary institutions. The joint resolution was subsequently recommitted to Ways and Means. A state lottery has also been mentioned in the Senate as a possible alternative funding source for the personal property tax relief provided under S.941 (see below).

STATUS: H.4682 was recommitted to the House Ways and Means Committee on 4/29/98.

VIDEO POKER BAN

The House passed H.4577, which, effective June 1, 1999, would ban video poker in South Carolina. The video poker ban also was placed in the House-passed General Appropriation Bill, which is currently being considered in conference committee. The Senate Finance Committee gave a favorable recommendation to S.947, which would ban video poker effective June 1, 1999. On Thursday, April 8, after several days of filibuster, the Senate adjourned debate on S.947 and placed H.4577 in the status of adjourned debate immediately following S.947, not to be taken up until either consideration on the General Appropriation Bill has been completed or a decision on the legality of video poker has been rendered by the State Supreme Court, whichever event occurs first. On May 12, 1998, the Senate again adjourned debate on S.947.

STATE GOVERNMENT

AFFIRMATIVE ACTION PROHIBITION

The House passed H.4115, which prohibits the state of South Carolina and its political subdivisions from using race, sex, color, ethnicity, national origin religion, age, or disability as criteria for either discriminating against or granting preferential treatment to any individual or group in the state's system of public employment, education, or contracting. The legislation applies only to actions taken following the enactment of the bill, and does not preclude adherence to pertinent court orders or consent decrees. The bill provides that employment of quotas to achieve equality is prohibited. The bill also provides that no preferential treatment may be granted to the families of members of the General Assembly in public employment by the state or its political subdivisions.

STATUS - H.4115 was referred to the Senate Judiciary Committee.

STATE EMPLOYEE PAY RAISE

The House-passed 1998-99 General Appropriation bill includes an appropriation of \$23.5 million for a 2% pay increase for state employees, effective October 1, 1998. The Senate-passed budget bill provides a 2-1/2% state employee pay increase, effective July 1, 1998. Cabinet agencies must absorb the pay increase in the Senate-passed bill. This issue is being negotiated in the 1998-99 budget conference committee.

STATUS: Pending as a portion of the 1998-99 General Appropriation Bill.

FREEDOM OF INFORMATION ACT

The House amended and returned to the Senate S.22, which revises the State Freedom of Information (FOI) Act. As amended, the bill states that a public body may but is not required to exempt from disclosure certain matters that are currently exempt (including trade secrets, law enforcement records, and certain compensation paid by public bodies). The amended bill further

specifies that a public body may exempt from disclosure documents incidental to a proposed contractual arrangement and documents incidental to proposed sales or purchases of property; however, these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased. A contract for the sale of real estate will remain exempt from disclosure until the deed is executed. Confidential proprietary information provided to a public body for economic development or contract negotiations purposes need not be disclosed. The bill also exempts from disclosure certain matters gathered by a public body during a search to fill an employment position and certain data collected by staff at an education institution. The bill specifies when a public body may hold a meeting closed to the public and that no action may be taken in executive session except to adjourn or to return to public session. Furthermore, the members of a public body may not commit the public body to a course of action by a polling of members in executive session.

The Senate amended S.22 and returned the bill to the House. The Senate amendment provides that a contract for the purchase or sale of real estate must remain exempt from disclosure until the deed is executed, but this exemption applies only to contracts of sale or purchase where the execution of the deed occurs within 12 months from the date of sale or purchase. The Senate amendment also requires the responsible official of each state agency or department, upon receipt of a written request, to immediately furnish to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or the chairman of any standing committee of the Senate or of the House any information regarding any of the respective affairs or activities of the entity. Any person who obtains this information is subject to the rules and laws governing the confidentiality of the information. Correspondence or work products of legal counsel, any information violative of the attorney-client privilege, trade secrets, information of a personal nature the disclosure of which would constitute an unreasonable invasion of personal privacy, and certain law enforcement records are exempt from this disclosure requirement. If the responsible official willfully refuses to comply with the request for information, he must be suspended without pay (not to exceed 10 days) before an administrative hearing is held. The amendment further provides that no responsible official may be terminated from employment for violating these provisions except by the impeachment proceedings delineated in the State Constitution.

STATUS - On May 7, 1998, the House refused to concur in the Senate amendments. On May 12, 1998, conference powers were granted by the House and the Senate.

INVESTMENT OF STATE EMPLOYEES' PENSION FUNDS

S.958 is the implementing legislation for the 1996 amendment (ratified in 1997) to Article X, Section 16 of the *SC Constitution*, authorizing the investment and reinvestment of the funds of various state-operated retirement systems in equity securities.

The bill establishes the State Retirement Systems Investment Panel, consisting of five members - one each appointed by the Governor, the State Treasurer, the Comptroller General, and the chairs of the House Ways and Means Committee and the Senate Finance Committee. The bill provides for panel members' qualifications, terms of service, duties, and compensation, and provides for the authorities of the panel. The bill requires that the panel develop an annual investment plan for the retirement systems for the next fiscal year, which must be adopted and implemented by the State Budget and Control Board (the board), as trustee of the retirement system and its funds. The

board must also provide the panel with a statement of actuarial assumptions and general investment objectives. The adopted plan must include components and meet requirements that are specified in the bill, including a requirement that the plan must provide the minimum and maximum portions of system assets that may be allocated to equity investments on an ongoing basis not to exceed forty percent and the minimum and maximum portions of system assets not to exceed ten percent that may be allocated to additional equity investment during the plan fiscal year. When investments in equities attain the maximum allocation allowed, up to forty percent of current member and employer contributions to the retirement system may be invested in equities. If, due to growth in value of equity investments, equity investments exceed forty percent of the total assets of the retirement system, the bill does not require the sale of equities to reduce the percentage of equities to forty percent. The plan must be reviewed and assessed by the panel at least once each fiscal year quarter, and implementation of the plan must be regularly reviewed by the board. The plan may be amended with the approval of the board. Costs of administering the panel's duties must be paid from investment earnings of the systems, and the expenses must be approved by the board. The bill also provides that the State Budget and Control Board, as trustee, may invest and reinvest the funds of the system in equity securities of a corporation within the United States that is registered on a national securities exchange as provided in the Securities Exchange Act of 1934, or a successor act, or quoted through the National Association of Securities Dealers Automatic Quotations System, or a similar service.

STATUS - Ratified (R356); Signed by the Governor 5/26/98

SHORTENING THE LEGISLATIVE SESSION

The House has passed a joint resolution, H.3041, amending the State Constitution to allow the General Assembly to convene the second Tuesday in February during odd numbered years (currently the General Assembly begins each legislative year on the second Tuesday in January). The change would provide time for legislative committees to meet and begin debating legislation before the start of the session. This measure also requires the Senate to meet in an organization session in odd-numbered years to elect officers and prepare for the regular session.

The House also has passed H.3042, which shortens the legislative session by scheduling the *sine die* adjournment date of the General Assembly on the second Thursday in May. Currently, *sine die* adjournment occurs on the first Thursday in June.

STATUS - H.3041 and H.3042 are pending in the Senate Judiciary Committee.

TAXATION

PERSONAL PROPERTY TAX RELIEF

The House passed and sent to the Senate H.4846 and H.4847. H.4846 proposes freezing personal property taxes (i.e. taxes on motor vehicles, boats, aircraft and business personal property) at their current levels. If the freeze is authorized, H.4847 phases out motor vehicle

property taxes in each county and then phases out the remaining personal property taxes.

H.4846 is a joint resolution proposing an amendment to the South Carolina Constitution which would freeze personal property taxes at their current (1998) levels. The freeze would affect property taxes imposed on motor vehicles for tax years beginning after June, 1999, and all other personal property taxes for tax years beginning after 1998. Under the constitutional amendment, local taxing authorities would annually adjust millage rate, if necessary, so that the revenue raised by personal property taxes does not exceed the amount collected in 1998.

If the above constitutional amendment is approved, **H.4847** establishes a mechanism whereby expected growth in state revenue would be used to eliminate personal property taxes, reimbursing local taxing authorities for the revenue lost. The bill establishes as a separate fund in the State Treasury the Motor Vehicle and Personal Property Tax Relief Trust Fund into which 15% of new recurring State General Fund revenue growth must be deposited each year. Revenue credited to this fund must be disbursed to local taxing authorities which must, in turn, reduce personal property tax bills accordingly. First priority is given to eliminating personal property taxes paid on motor vehicles, then all other personal property taxes must be eliminated. When all personal property is wholly exempt, each taxing entity will receive a monthly reimbursement equal to one-twelfth of its local personal property base payment. The fund must be used to reimburse local taxing authorities up to the maximum amount of an estimated \$1.3 billion- that is, the amount collected in personal property taxes as of fiscal year 1998-99, when personal property taxes are frozen under the proposed constitutional amendment.

*STATUS: The House passed **H.4846** and **H.4847** and sent them to the Senate where they have been referred to the Finance Committee. Should Joint Resolution **H.4846** be approved by the General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect. **H.4847** depends upon amendment of the state constitution.*

The Senate has also discussed such a plan for eliminating personal property taxes through a constitutional freeze on personal property taxes as proposed in Joint Resolution **S.941** and creation of a fund for eliminating personal property taxes as provided in **S.940**. These measures have not received third and final reading in the Senate.

*STATUS: **S.941** has received second reading in the Senate, but, debate was interrupted on the measure by adjournment. **S.940** is on the Senate Calendar, but has not received second reading.*

The Senate approved Joint Resolution **S.1055** which proposes amending the South Carolina Constitution so as to afford local taxing authorities an opportunity, but not an obligation, to provide taxpayers with relief on personal property taxes paid on cars, boats, motors, and aircrafts. Currently, the state constitution provides that such items of personal property must be taxed on an assessment of 10.5% of fair market value. The joint resolution proposes amending the state constitution so as to allow a county governing body, in consultation with all taxing entities in the county, to tax the personal property of cars, boats, motors, and aircrafts on an assessment of no more than 10.5% and no less than 6%.

*STATUS: Joint Resolution **S.1055** was passed by the Senate and sent to the House where it has been referred to the Ways and Means Committee. Should the joint resolution be approved by the*

General Assembly, the proposed constitutional amendment would have to be approved by the state's voters at the general election and ratified by the General Assembly before taking effect.

TRANSPORTATION

SPEED LIMITS

The House passed H.3150, which defines the highways encompassed by the interstate highway system and the state highway primary system, and revises the speed limits to seventy miles an hour on the interstate highway system and other officially posted freeways; sixty miles an hour on officially posted multilane divided primary highways; fifty-five miles an hour in other locations or on other sections of highways. Maximum speed in an "urban district" is thirty miles an hour, and speed limits on unpaved roads are limited to forty-five miles an hour. The bill also revises the language on signs posted in a work zone and provides that the penalty displayed on signs posted in a work zone are in addition to other penalties for speeding. The bill also provides that manufactured modular or mobile homes must not be transported at a speed in excess of ten miles below the posted speed limit when the posted limit is in excess of forty-five miles per hour, and never in excess of fifty-five miles an hour. The bill also provides that a local authority, under certain conditions, may determine that the maximum speed limit permitted is less than thirty miles an hour in an urban district.

STATUS - This bill was reported favorable with amendment from the Senate Transportation Committee, and is pending on the Senate calendar with five senators listed as "desiring to be present."

1998-99 GENERAL APPROPRIATION BILL

The House and the Senate have passed their respective versions of a state budget for 1998-99. The House-Senate budget conference committee is meeting to work out the considerable differences between the two bills. The conferees for this year are Reps. Brown, Boan, and Young-Brickell for the House; and Sens. Drummond, Land, and McConnell for the Senate.

AS PASSED BY THE HOUSE

Highlights of the House bill, as last amended on May 13, include, but are not limited to:

Statewide Appropriations:

State Health Insurance Rate Increase	21.0 million
State Employee Pay Increase - (2% effective 10/1/98)	23.0 million
Property Tax Relief - Annualization and Growth	20.6 million
General Reserve Fund	7.2 million
Capital Reserve Fund	4.8 million
Debt Service	2.5 million
Property Tax Relief - Reduced Manufacturing Depreciation (2nd of 3 year phase-in)	10.9 million
Homestead Exemption Projected Growth	1.4 million

The House appropriated \$1.5 million to annualize only the 1997-98 state employee pay increases at the Department of Public Safety and the Department of Corrections. Other state agencies must find the remaining \$7.8 million needed for pay increase annualization, within their existing budgets. The House budget includes a separate \$354 million Property Tax Relief Trust Fund, which includes funding for age 65 homeowner property tax relief, manufacturing depreciation reimbursement, homeowner property tax relief for school operating millage, and business inventory tax reimbursement. This separate fund is intended to assure that these monies will only be used for tax relief to South Carolina's citizens. Although the Senate budget does include property tax relief, it does not set aside the money in a separate fund.

PUBLIC EDUCATION: Highlights of House appropriations for public education include: an increase of \$39.1 million to fund fringes and the Education Finance Act base student cost of \$1,879 (2.2% inflation) and 786,060 weighted pupil units; \$4 million for 62 school buses; \$14.4 million to phase in the Performance and Accountability Standards for Schools (PASS) initiative; \$14.5 million for final year phase-in for full-day kindergarten (includes \$3.7 million for fringes); \$8.1 million for reducing the size of classes in grades one through three in districts with greatest need; \$6.1 million for textbooks; \$1.6 million start-up/operational funding for the year-round Governor's School for the Arts and Humanities; \$4.2 million to help cover costs resulting from the increase in credits required to graduate from high school; \$5.9 million for basic skills-academic assistance (under Act 135 of 1993); \$9 million to keep teachers' salaries above the Southeastern average (Southeastern average salary has increased from \$33,547 to

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\$34,565); \$1 million to fund the 1997 Assisting, Developing, and Evaluating Professional Teaching (ADEPT) legislative initiative; and \$437,900 to fund giving all tenth graders the opportunity to take the Preliminary Scholastic Aptitude Test (PSAT) or the preliminary test for the American College Test.

HIGHER EDUCATION: The House-passed funding for higher education includes, but is not limited to \$30.3 million for the Legislative Incentives for Future Excellence (LIFE) Scholarship initiative; \$6 million for performance/formula funding; \$2 million for special schools' annualizations; \$2.5 million for EPSCoR (Experimental Program to Stimulate Competitive Research); and \$900,000 for tuition grants.

HEALTH: The \$24.4 million recurring appropriation in this area includes, but is not limited to \$15.4 million to annualize the current year's funding for Health and Human Services; \$4 million for nursing home rate adjustment; \$1.1 million for rural health clinic growth; \$1.6 million for supplemental Medicare insurance premium increase; and \$919,000 for Medicaid match rate change.

ECONOMIC DEVELOPMENT, NATURAL RESOURCES, CULTURAL: Recurring appropriations total \$2.5 million, including \$1.5 million to Clemson Public Service Authority; \$500,000 to the Department of Commerce for employee incentives and \$500,000 to the Department of Commerce for advertising.

CRIMINAL JUSTICE: Recurring appropriations total \$13.8 million, including but not limited to \$2.4 million to the Judicial Department for annualization of judges and staff, annualization of tiered judges' salaries, judges' expense allowance, judicial commitment, and court appointed funding; \$158,000 to SLED for forensic lab equipment; \$255,868 to the Attorney General's Office for Medicaid fraud control, capital litigation, and prevention of violence against women; \$500,000 to the Prosecution Coordination Commission for Judicial Circuit state support; \$2.5 million to the Department of Corrections for operating funds and for the substance abuse facility at Lee; \$2.6 million to the Department of Probation, Parole and Pardon Services for annualizations and restitution collection; \$5.2 million to the Department of Juvenile Justice for annualization of 1997-98 funding.

TRANSPORTATION: No new funding recommended.

LEGISLATIVE/EXECUTIVE: After factoring in the \$1 million in recommended legislative/executive budget reductions, the recurring funds appropriated in this area result in new funding of slightly over \$1 million. Recommendations for new funding include \$530,622 to the Adjutant General's Office for State match for FEMA funds; \$1.5 million to the State Budget and Control Board for Capitol Complex rent; and \$37,482 to the State Ethics Commission for one investigator. Budget cuts include \$300,000 reduction to Legislative Printing; \$50,000 reduction to Administrative Law Judge base; \$50,000 reduction in Total Quality Management Funds under the Budget and Control Board; and \$400,000 base reduction to the Department of Revenue.

HOUSE-PASSED PROVISOS

Major provisos in the House-passed 1998-99 appropriation bill include, but are not limited to: A ban of video poker (included in both *Part I* and *Part II* - also passed the House as separate legislation); removal of the Palmetto Unified School District 1 of the SC Department of Corrections from eligibility for funding under the Education Finance Act (although it would still be eligible for adult education funding through the SC Department of Education); the LIFE Scholarship initiative (which also passed the House as a separate bill); an extension of the steps in the State Minimum Salary Schedule for teachers, from seventeen to twenty years by one-year increments (each additional year will be increased by one percent over the previous year); and the Performance and Accountability Standards for Schools (PASS) initiative, which has already passed the House as a separate bill. Also, the House included: a provision that no state funds shall be used to pay for an abortion either directly or indirectly, except when an abortion is necessary to save the life of the mother; a provision to dissolve the State Reorganization Commission with the assets and employees of the Commission evenly divided between the House of Representatives and the Senate.

SUPPLEMENTAL APPROPRIATIONS

The House budget includes a *Part III* section which makes supplemental appropriations of surplus general fund revenues of the 1997-98 fiscal year, to the extent that such funds are available. Highlights of those appropriations include (but are not limited to): \$1 million to the State Department of Education for textbooks; \$5 million for education technology (telecommunication lines); \$9.4 million to the Property Tax Relief Trust Fund; \$21.8 million to maintain the Fiscal Year 1997-98 funding level for the Local Government Fund; \$10.9 million to the Local Government Fund to cover growth; \$5.7 million to the Department of Health and Human Services for Medicaid growth; \$5.5 million to the Department of Social Services for emotionally disturbed children; and \$2 million to the Department of Commerce to help fund the Spartanburg Renaissance Downtown Development Project (the bill provides that these funds are to be matched 2:1). The bill also provides that, effective July 1, 1998, the Advisory Coordinating Council for Economic Development (the Council) must establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing downtown areas through partnerships of local government and private investors. The bill provides that the Council must establish program guidelines, regulations, and criteria by which grants must be evaluated, including a specific requirement for matching funds and a requirement for completion of an economic impact before an award is made.

CAPITAL RESERVE FUND

H.4702, as passed by the House, appropriates \$86.9 million from the Capital Reserve Fund for Fiscal Year 1997-98. These appropriations include, but are not limited to: \$25 million for higher education formula funding; \$10.8 million to the State Department of Education for textbooks; \$5.7 million to Horry-Georgetown Tech for library and student services; \$4 million to Clemson PSA for the Agriculture and Life Sciences Biotechnology Complex; \$3 million to Clemson for Littlejohn Coliseum; \$3 million to the University of Charleston for the Health and Physical Education Complex; \$2.5 million to the University of South Carolina for the Arena; \$3.5 million to the University of South Carolina for the School of Public Health; \$2 million to DHEC for Horry Beach Renourishment; and \$2 million to PRT for the Columbia Conference Center.

AS PASSED BY THE SENATE

NOTE: *The Senate-passed budget includes a \$47.9 million "wish list" of projects that the Senate proposes to pay for with as-yet unrealized 1997-98 surplus revenues. The House budget did not include such a list. The Senate budget also includes a \$101.3 million bond bill, which is not included in the House's budget plan.*

Statewide appropriation highlights of the Senate's bill include, but are not limited to: state health insurance rate increase - \$12.1 million; state employee pay increase (2.5% July 1-cabinet agencies must absorb increase) - \$38.9 million; annualization of 1997-98 state employee pay increase - \$9.36 million (funded under Senate's "wish list" - House plan included \$1.5 million to cover annualization for Dept. of Corrections and Dept. of Public Safety only).

Other funding in the Senate's 1998-99 budget bill includes, but is not limited to:

PUBLIC EDUCATION: \$40.8 million to fund EFA and fringes (includes funding for Department of Corrections School District, which was not included in House plan); \$4 million to buy school buses (Senate plan funded this in their bond bill; House plan funded the same amount but in recurring funds); \$61.1 million to fund EXCEL, the Senate's education accountability package (includes \$39.1 million to begin phased-in reduction of pupil/teacher ratio to 15:1 in grades K-3); \$13.6 million for full-day kindergarten; \$7.2 million for an extension of teacher longevity pay increases from eighteen to twenty years (funded on the "wish list").

HIGHER EDUCATION: \$7 million for tuition tax credits (House tuition assistance plan is LIFE scholarship program, funded at \$30.3 million); \$16 million increase to performance funding (Senate included this funding in Capital Reserve funds, House did not provide this increase).

HEALTH: \$4.7 million for new nursing home beds; \$6.4 million for 4,322 community long-term care slots; \$1.75 million for residential services for persons with disabilities; \$750,000 for support services for families of persons with disabilities; and creation of a tobacco settlement advisory committee. The House did not include any of these items in its budget plan.

ECONOMIC DEVELOPMENT, NATURAL RESOURCES, CULTURAL: \$3 million for the Heritage Corridor (included on Senate's "wish list;" House included \$1 million for the Heritage Corridor in Capital Reserve funds); \$16 million for Ports Authority harbor dredging (included in Senate's bond bill; not funded by the House); \$1.6 million for repairs to parks (included in Senate bond bill; not funded by the House); \$3.5 million for Parks, Recreation, and Tourism Department for restoration of reserve funds (included on Senate "wish list;" not funded by the House).

CRIMINAL JUSTICE: \$500,000 for Alternate Dispute Resolution (not funded by House); \$6.1 million to the Department of Public Safety for Department of Motor Vehicles computers, additional troopers, cars, vests (House funded \$6.8 million by provisos); \$6.6 million for operating funds for four 256-bed additions (included in Senate's "wish list;" House funded at \$1.9 million); \$6.1 million Department of Juvenile Justice annualization for current program efforts (included in Senate "wish list;" House funded at \$5.2 million); \$1.6 million for Palmetto Unified School District 1 (not included in the House budget).

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LEGISLATIVE/EXECUTIVE: \$1.95 million for Capitol Complex Site Improvements (included in Senate bond bill; not included in House budget); \$1 million for State House operations and management (not included in the House budget); \$5.6 million for local government grants (\$4.6 million on Senate "wish list" and \$1 million in Capital Reserve funds; House bill includes \$800,000 in Capital Reserve Funds); \$7 million for the Infrastructure Revolving Fund (\$4 million on Senate "wish list" and \$3 million in Capital Reserve funds; House funded this item at \$800,000).

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.